

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

FWK Holdings, L.L.C., on behalf of itself and
all others similarly situated,

Plaintiff,

v.

ACTAVIS ELIZABETH, LLC, TEVA
PHARMACEUTICALS USA, INC., PLIVA,
INC., MYLAN INC., MYLAN
PHARMACEUTICALS INC., UDL
LABORATORIES, INC., ENDO
INTERNATIONAL PLC; PAR
PHARMACEUTICALS HOLDINGS, INC.,
HERITAGE PHARMACEUTICALS INC.,
BRECKENRIDGE PHARMACEUTICALS,
INC., and UPSHER-SMITH
LABORATORIES, INC.,

Defendants.

Case 1:16-cv-09901-JSR

CLASS ACTION

**SUPPLEMENTAL REPORT CONCERNING JANUARY 6, 2017 CASE MANAGEMENT
AND SCHEDULEING CONFERENCE**

Plaintiff FWK Holdings, L.L.C., through its counsel, respectfully submits this supplemental report to its December 30, 2016 *Report Concerning January 6, 2017 Case Management and Scheduling Conference* (the “Dec. 30 Report”). ECF No. 7.

I. STATUS OF SERVICE OF PROCESS

As of today, all defendants have been served, except for Defendant Pliva, Inc. (“Pliva”). A copy of the transmittal letter is attached hereto as Exhibit A. Plaintiff’s counsel understands that Pliva is now part of Defendant Teva Pharmaceuticals USA, Inc. (“Teva”) and that Teva’s counsel will be representing Pliva.

As of today, counsel for Defendants Breckenridge Pharmaceuticals, Inc., Mylan Inc., Mylan Pharmaceuticals Inc., and UDL Laboratories Inc. have entered appearances (ECF Nos. 17, 20-22). Counsel for Defendant Heritage Pharmaceuticals Inc. have filed *pro hac vice* motions. ECF Nos. 14, 15).¹

II. THE JPML PANEL DECLINED TO TRANSFER THE ACTION TO THE EASTERN DISTRICT OF PENNSYLVANIA

The Dec. 30 Report notified the Court that a plaintiff in the *In re: Generic Digoxin and Doxycycline Antitrust Litigation* (MDL No. 2724, E.D. Pa.) filed a Notice of Potential Tag Along Actions that sought to transfer the above-captioned action (“Action”) to the Eastern District of Pennsylvania. On January 4, 2017, the JPML Panel determined that the Action “is not appropriate for inclusion in this MDL.” *In re: Generic Digoxin and Doxycycline Antitrust Litigation*, MDL No. 2724, ECF No. 122 (text only entry) (E.D. Pa.).²

¹ Plaintiff’s counsel has transmitted via email the Court’s December 27, 2016 Notice of Court Conference (ECF No. 6) on those counsel who have appeared for defendants in the Action and on counsel who Plaintiff’s counsel understand may be retained to represent certain defendants in the Action.

² On December 28, 2016, Rochester Drug Co-Operative, Inc. filed in the Eastern District of Pennsylvania an action alleging violations of Section 1 of the Sherman Antitrust Act arising out of the defendants’ alleged unlawful scheme to fix, maintain, and stabilize the prices of generic propranolol tablets and capsules. *Rochester Drug Co-Operative, Inc. v. Actavis Elizabeth, LLC, et al.*, Case No. 2:16-cv-06672-CMR (E.D. Pa.) (the “*Rochester Drug Action*”) (Rufe, J.). The *Rochester Drug Action* was filed as related to the MDL pending before Judge Cynthia M. Rufe. On January 3, 2017, Judge Rufe determined that the *Rochester Drug Action* is “not properly filed in MDL 2724 as presently constructed” because it does “not allege antitrust violations with regard to generic digoxin or doxycycline” *Rochester Drug Action*, ECF No. 3. Judge Rufe further ordered that the *Rochester Drug Action* be marked as related to the first case filed in the MDL “pending further order of the Court or the Panel.” *Id.* On January 5, 2017, plaintiff in the *Rochester Drug Action* filed a motion pursuant to 28 U.S.C. § 1407 to transfer and coordinate or consolidate the Action and other actions unrelated to generic digoxin or doxycycline to the Eastern District of Pennsylvania. *In re: Generic Digoxin and Doxycycline Antitrust Litigation*, MDL No. 2724, ECF No. 125 (E.D. Pa.).

III. A RELATED ACTION HAS BEEN FILED IN THIS DISTRICT

On January 5, 2017, a related action was filed in this District that is captioned *Cesar Castillo, Inc. v. Actavis Elizabeth, LLC, et al.*, Case No. 1:17-cv-00078. The *Cesar Castillo* Action was filed as related to the Action.

Dated: January 5, 2017

Respectfully submitted,

KAPLAN FOX & KILSHEIMER LLP

By: /s/ Robert N. Kaplan

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Exhibit A

December 28, 2016

Via Hand Delivery to:

Actavis Elizabeth, LLC; 200 Elmora Ave., Elizabeth, NJ 07207
Endo International plc, 1400 Atwater Dr, Malvern, PA 19355
Teva Pharmaceuticals USA, Inc.; 1090 Horsham Road North Wales, PA 19454 USA
Pliva, Inc.; 72 Deforest Ave, East Hanover, NJ 07936
Mylan Inc.; 1000 Mylan Blvd., Canonsburg, Pennsylvania 15317
Mylan Pharmaceuticals Inc.; 781 Chestnut Ridge Road, Morgantown, West Virginia 26505
UDL Laboratories, Inc.; 1718 Northrock Ct, Rockford, IL 61103
Par Pharmaceuticals Holdings, Inc.; One Ram Ridge Road, Chestnut Ridge, New York, 10977
Heritage Pharmaceuticals Inc.; 12 Christopher Way #300, Eatontown, NJ 07724
Breckenridge Pharmaceuticals, Inc.; 1 Passaic Ave, Fairfield, NJ 07004
Upsher-Smith Laboratories, Inc.; 6701 Evenstad Drive, Maple Grove, MN 55369


Subject: *FWK Holdings, L.L.C. v. Actavis Elizabeth, LLC, et al.*, 1:16-cv-09901-JSR

To Whom It May Concern:

Enclosed herewith is a copy of the following documents:

1. Summons;
2. Complaint bearing caption: *FWK Holdings, L.L.C. v. Actavis Elizabeth, LLC, et al.*, 1:16-cv-09901-JSR;
3. Notice of Court Conference (ECF No. 6), which has been scheduled for January 6, 2017 at the United States Court House, 500 Pearl Street, New York, NY 1007, in Courtroom 14-B, at 11:00 a.m. – 11:15 a.m. The notice states, in part, “any unrepresented party is required to appear at the conference in person;” and
4. Honorable Jed S. Rakoff’s Individual Rules of Civil Practice.

Sincerely,



Mandrika Moonsammy
Paralegal